



4. After unsuccessful attempts to secure Plaintiff's Initial Disclosures, Defendant filed a Motion to Compel Plaintiff's Rule 26 Initial Disclosures on November 28, 2022, due to Plaintiff's failure to serve Initial Disclosures. (Doc. 34).

5. This Honorable Court granted Defendant's Motion to Compel and ordered Plaintiff to provide Defendant with Initial Disclosures that are compliant with Rule 26 of the Federal Rules of Civil Procedure no later than January 9, 2023. (See Doc. 41).

6. As of the date of this Motion, Plaintiff has refused to provide Defendant with compliant Rule 26 Initial Disclosures.

7. Defendant moves this Honorable Court for an Order dismissing this action, with prejudice as sanctions against the Plaintiff for her refusal to comply with this Court's Orders. As a result of Plaintiff's refusal, Auto-Owners cannot move forward with the defense of this case with the very limited information currently presented.

8. Plaintiff has demonstrated a willful refusal to comply with this Honorable Court's Orders and Auto-Owners has been prejudiced in its investigation and defense of the case due to Plaintiff's continued refusal to provide Initial Disclosures compliant with FRCP 26.

9. In addition to dismissal of this case, Defendant respectfully requests this Honorable Court order Defendant to pay its reasonable expenses, including attorneys' fees, for bringing such Motion under Rule 37(b)(2)(C) of the Federal Rules of Civil Procedure.

**WHEREFORE**, based upon the foregoing, Defendant requests an Order: (1) dismissing of this case, with prejudice, as sanctions against Plaintiff for her refusal to comply by both, the Court's Scheduling Order (Doc. 17) and the Court's Order (Doc. 41) granting defendant's motion to compel and ordering Plaintiff to serve her Rule 26 Initial Disclosures;

(2) awarding Defendant its reasonable expenses, including attorneys' fees for bringing this Motion under Rule 37; and (3) any additional relief the Court deems equitable and just.

Respectfully submitted,

s/Matthew B. Rogers

**PARKS T. CHASTAIN**

Registration No. 13744

DIRECT: (615) 630-7717

(615) 256-8787, Ext. 114

pchastain@bkblaw.com

**MATTHEW B. ROGERS**

Registration No. 038777

DIRECT: (615) 630-7725

(615) 256-8787, Ext. 121

mrogers@bkblaw.com

Attorneys for Defendant, Auto-Owners Insurance  
Company

**BREWER, KRAUSE, BROOKS & CHASTAIN, PLLC**

545 Mainstream Drive, Suite 101

Nashville, TN 37228

**LOCAL RULE 7.2(a)(1)(B) CERTIFICATE OF CONSULTATION**

**COUNSEL FOR DEFENDANT CERTIFIES THAT HE HAS ATTEMPTED TO CONSULT WITH PLAINTIFF'S COUNSEL IN A GOOD FAITH EFFORT TO RESOLVE THE DISCOVERY DISPUTE AND THAT THOSE EFFORTS HAVE NOT BEEN SUCCESSFUL.**

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 21<sup>st</sup> day of February, 2023, a true and correct copy of the foregoing MOTION FOR SANCTIONS was filed electronically. Notice of this filing will be sent by operation of the court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U. S. Mail. Parties may access this file through the court's electronic filing system.

Drayton D. Berkley, Esquire  
Berkley Law Firm, PLLC  
P. O. Box 771048  
Memphis, TN 38177

s/Matthew B. Rogers  
**MATTHEW B. ROGERS**

PTC:  
MBR:mbr